NOTES OF CASES.

Refusal to Reverse for Technicality.—One having been convicted of murder, appealed with the alacrity usual in criminal cases. It was apparent that the wounds of the victim had not been self-inflicted, and to further establish this fact testimony of physicians was introduced. For the error in the admission of this evidence a new trial was sought, on the ground that the prosecution, having offered this evidence as a part of its case, was estopped from denying its injurious effect. In Byers *v.* Territory, 103 Pacific Reporter, 532, the Oklahoma Criminal Court of Appeals refused to be bound by or to follow the line of authorities which it condemned as technicality run mad, repugnant to reason, demoralizing to respect for law, and destructive to justice. If the evidence the admission of which was error could reasonably have had any effect on the jury, this decision might have been different, but it is the fixed policy of this court to refuse to reverse convictions upon mere technicalities or exceptions which do not deprive the defendant of a substantial right. Ignoring justice and deciding cases upon technicalities has not only largely lost to the court the confidence and respect of the people, but it has greatly alarmed the profession of the law itself.

The Doctrine of Invitation.—In Miller *v.* Hancock the Court of Appeal laid down the rule that when the owner of a building has contracted with his tenants to keep the staircase in repair, as he must have contemplated that it would be used by persons having business with them, there is a duty on his part towards such persons to keep it in a reasonably safe condition. This doctrine has been criticised in a recent case in the same Court; but it has not been over-ruled. Does it, however, apply to an omission to light a staircase in a building let out in flats, in consequence of which a tradesman bringing goods for a tenant falls down the staircase and is injured? This was the point raised in Lewis *v.* Ronald, an appeal from the County Court at Brompton, which came before the Divisional Court last week. One's natural inclination may be to say that the cases are identical; but a distinction has been drawn between an omission to keep a staircase in proper repair and an omission to keep it lighted. The person using the staircase is entitled to assume that it is structurally in good condition. If it be not, the risk that he incurs in using it may not be obvious, so that there is something in the nature of a trap. But the danger of a dark passage or staircase with which the person using it is not familiar is obvious. If he chooses to use it when it is unlighted, he does so at his own risk. The landlord, said the Court of Appeal last year in Huggett *v.* Miers, does not authorize his tenants

to invite persons to use the staircase when it is in darkness; and on the authorities the Divisional Court was bound to hold that the unfortunate plaintiff could not recover damages from the owner of the building.—London Law Journal.

Nuisance—Negligence—Motor Omnibus—Motor Skidding on Slippery Road—Accident to Passenger—"Res Ipsa Loquitur."—Wing *v.* London General Omnibus Co. (1909), 2 K. B. 652, was an action by a passenger on a motor omnibus against the owners to recover damages for injuries sustained by the plaintiff owing to the omnibus skidding on the road, which had become slippery through rain, and running into an electric light standard. No other evidence of negligence was given by the plaintiff than the above facts, and it was assumed and not disputed that motor omnibuses had a tendency to skid when the road was in that condition. The defendants called no witnesses except as to the quantum of damages, and a jury in the County Court, where the action was tried, found a verdict for the plaintiff, but the judge being of opinion that there was no evidence of negligence on the part of the defendants, dismissed the action. The Divisional Court (Bigham and Walton, JJ.) reversed the decision of the County Court judge, but a majority of the Court of Appeal (Williams and Moulton, L.JJ.) reversed the judgment of the Divisional Court (Buckley, L.J., dissenting). The majority basing their conclusion on the ground of the want of any evidence that the defendants, allowing the motor omnibus to run in the circumstances, constituted a nuisance. Buckley, L.J., on the other hand, was of the opinion that the mere fact of the defendants allowing the motor omnibus to run when the road was in that condition, of itself constituted evidence of negligence on their part.—Canada Law Journal.